

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION
OF THE CLAIMS PRACTICES OF THE
WORKMEN'S AUTO INSURANCE COMPANY
NAIC # 13250 CDI # 1375-5

AS OF DECEMBER 31, 2002

STATE OF CALIFORNIA



DEPARTMENT OF INSURANCE
MARKET CONDUCT DIVISION
FIELD CLAIMS BUREAU

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CALIFORNIA DEPARTMENT OF INSURANCE

Consumer Services and Market Conduct Branch
Field Claims Bureau, 11th Floor
Ronald Reagan State Office Building
300 South Spring Street
Los Angeles, CA 90013



July 16, 2004

The Honorable John Garamendi
Insurance Commissioner
State of California
45 Fremont Street
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

Workmen's Auto Insurance Company
NAIC #13250

Hereinafter referred to as the Company.

This report is made available for public inspection and is published on the California Department of Insurance web site (www.insurance.ca.gov) pursuant to California Insurance Code section 12938.

SCOPE OF THE EXAMINATION

The examination covered the claims handling practices of the aforementioned Company during the period January 1, 2002 through December 31, 2002. The examination was made to discover, in general, if these and other operating procedures of the Company conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. Any alleged violations of other relevant laws which may result from this examination will be included in a separate report which will remain confidential subject to the provisions of CIC Section 735.5.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Company for use in California including any documentation maintained by the Company in support of positions or interpretations of fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.
3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was conducted at the Company's claims office in Los Angeles, California.

The report is written in a "report by exception" format. The report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

Any alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The examiners reviewed files drawn from the category of Closed Claims for the period January 1, 2002 through December 31, 2002, commonly referred to as the “review period”. The examiners reviewed 451 claims files. The examiners cited 235 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report. Further details with respect to the files reviewed and alleged violations are provided in the following tables and summaries.

Workmen’s Auto Insurance Company			
CATEGORY	CLAIMS FOR REVIEW PERIOD	REVIEWED	CITATIONS
Personal Auto - Collision	3872	69	38
Personal Auto – Comprehensive	921	63	40
Personal Auto – Medical Payment	499	59	38
Personal Auto – Uninsured Motorists (Bodily Injury and Property Damage)	551	64	44
Personal Auto – Collision Deductible Waiver	20	17	7
Personal Auto – Property Damage	7687	70	12
Personal Auto – Bodily Injury	1985	63	42
Homeowners – Other Than Water Damage	100	33	11
Homeowners – Water Damage	39	13	3
TOTALS	15, 674	451	235

TABLE OF TOTAL CITATIONS		
Citation	Description	Workmen's Auto Insurance Company
CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.	42
CCR §2695.8(b)(1)	The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile.	35
CCR §2695.5(b)	The Company failed to respond to communications within fifteen calendar days.	18
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every thirty-calendar days.	17
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers, which pertain to the claim.	16
CCR §2695.7(h)	The Company failed upon acceptance of the claim to tender payment within thirty calendar days.	15
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days.	14
CCR §2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	13
CCR §2695.8(b)(1)	The Company failed to explain in writing for the claimant the basis of the fully itemized cost of comparable automobile.	10
CCR §2695.5(e)(2)	The Company failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days.	8
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within fifteen calendar days.	8
CCR §2695.5(a)	The Company failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry.	7
CCR §2695.8(f)	The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.	5
CCR §2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	4
CCR §2695.7(b)(3)	The Company failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.	4
CCR §2695.3(b)(2)	The Company failed to record in the file the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file.	3
CCR §2695.7(b)(1)	The Company failed to provide written basis for the denial of the claim.	3
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	3
CCR §2695.7(d)	The Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute.	2
CCR §2695.7(f)	The Company failed to provide written notice of any statute of limitation or other time period requirement not less than sixty days prior to the expiration date.	2

TABLE OF TOTAL CITATIONS		
Citation	Description	Workmen's Auto Insurance Company
CCR §2695.8(b)(1)(C)	The Company failed to document the determination of value. Any deductions from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount.	2
CIC §790.03(h)(5)	The Company failed to effectuate prompt, fair and equitable settlement of claim.	2
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within fifteen calendar days.	1
CIC §790.03(h)(1)	The Company misrepresented to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.	1
Total Citations		235

SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. In response to each criticism, the Company is required to identify remedial or corrective action that has been or will be taken to correct the deficiency. Regardless of the remedial actions taken or proposed by the Company, it is the Company's obligation to ensure that compliance is achieved. Money recovered within the scope of this report was \$17,308.34. Following the findings of the examination, additional payments of \$1,167.00 were recovered. In addition, the Company completed a one year closed claim survey resulting in \$33,643.90 payments. As a result of the examination, the total amount of money returned to claimants within the scope of this report was \$52,119.24.

1. The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. In 42 instances, the Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. In most instances, there were no actions taken for months or gaps in claim handling. In some instances, it took months to verify coverage of the vehicle, arrange inspection, review medical specials and resolve the claim after receiving the additional information. The examiners identified claims where the Supervisors reviewed the claims files and wrote notes to the claims representatives to take actions but no subsequent actions were taken. The Department alleges these acts are in violation of CIC §790.03(h)(3).

Summary of Company Response: The Company indicated they provide the Supervisors with a daily report of those claims on diary. The Supervisors turn the daily diary sheets to the Regional Managers weekly in the effort to eliminate gaps in handling. The Company developed a report, which is generated monthly, to identify any and all claims files, which lack activity in the file notes. The note pad activity report, which is generated monthly, proved to be a useful tool to monitor diary and assure constant activity to resolve the claim as quickly as possible. In addition, majority of the files with gaps in claim handling fell off diary. As a result of this examination, the Company issued a memorandum to all claims staff on 3/12/03 addressing diary on open claim files. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CIC §790.03(h)(3) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

2. The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In 35 instances, the Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. The alleged violations were in reference to first party comprehensive and collision auto total losses. The Company did not in all instances include taxes. Vehicle License fees, transfer fees and non-refundable licensing fees in the cash settlement. The Company did not include Vehicle License Fees in 21 instances and did not include both Vehicle License Fees and transfer fees in 10 instances where the total loss vehicle was not retained by the insured. The Company did not

include transfer fees in two instances and in one instance, did not include sales tax, Vehicle License Fee and transfer fee where the total loss vehicle was not retained by the insured. In one instance, the Company did not include sales tax, transfer fee and salvage certificate fee where the total loss vehicle was retained by the insured.

The Company is not consistent in including the transfer fees in the total loss settlements of owner retained vehicles. The Company stated that majority of all total loss claims settled included the \$15.00 transfer fee. The Company has provided documentation to the CDI that 24 additional payments have been provided to consumers relating to the files cited for these alleged violations. The Department alleges these acts are in violation of CCR § 2695.8(b) (1).

Summary of Company Response: It is the Company's position that they do not owe the \$3.00 salvage certificate fee on owner's retained vehicle, as it is one aspect of the owner's responsibility. In addition, the Company maintains that no sales tax is due, as there is no sale of the salvaged vehicle. The Company does not believe that Section 2695.8(b)(1) requires insurers to pay transfer fees when not incurred by the insured, as in the case when the insured retains salvage. It is the Company's position that the regulation does not require an insurer to front refunds of unused license fees. Without, waiving this position, however, the Company has agreed to pay the transfer fee on first party claims. In addition, the Company issued a memorandum to all claims staff on 3/12/03 instructing to pay unused license fees on all first and third party total loss claims on a go forward basis and reminding the inclusion of the \$15.00 transfer fee. The Company now has a contract with an outside vendor to calculate the appropriate settlement figure for unused vehicle license fees. Furthermore, in a remedial effort, the Company completed a self-survey of total loss claims. An additional, \$33,643.90 was paid to claimants. The Company disagrees that the acts are a violation of CCR§ 2695.8(b)(1) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

This is an unresolved issue and may result in further administrative action.

3. The Company failed to respond to communications within fifteen calendar days. In 18 instances, the Company failed to respond to communications within fifteen calendar days. In the majority of the instances, the Company did not respond to the letters of representation, demands, inquiries or correspondence either verbally or in writing. In some cases, the Company only responded when the attorneys called asking for status and the other carriers sent second requests. The Department alleges these acts are in violation of CCR §2695.5(b).

Summary of Company Response: As a result of this examination, a memorandum to all claims staff was issued on 3/12/03. The memorandum addresses what action is needed to resolve this issue. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.5(b) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

4. The Company failed to provide written notice of the need for additional time every thirty calendar days. In 17 instances, the Company failed to provide written notice of the need for additional time every thirty calendar days. In most cases, the estimates, medical

bills, confirmation of coverage or proof of loss were received with no actions taken for months and no status letters sent in between to explain the delay. The Department alleges these acts are in violation of CCR 2695.7(c)(1).

Summary of Company Response: The Company stated they have in place a specific form letter for the claims staff to utilize to ensure compliance with this regulation. As a result of this examination, the Company issued a memorandum to the claims staff on 3/12/03 directing them to utilize the form letter and comply with the requirement, as well as being consistent on 30 day letters thereafter, if the claim is not paid. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.7(c)(1) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

5. The Company failed to properly document claim files. In 16 instances, the Company's claim file failed to contain all documents, notes, and work papers, which pertain to the claim. The claim files do not contain copies of acknowledgement letters, denial letters, status letters, request for additional information and documentation indicating that estimates and vendor total loss evaluations were sent to the insured or explaining why the Independent Adjuster's depreciation was changed or lowered. The Department alleges these acts are in violation of CCR §2695.3(a).

Summary of Company Response: As a result of this examination, the Company discussed the lack of documentation and the importance of documentation in the 3/12/03 memorandum. The claims staff were instructed what actions to take to resolve this issue. A copy of the memorandum has been provided to the CDI for our review. The Company disagrees that the acts are a violation of CCR§2695.3(a) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

6. The Company failed upon acceptance of the claim to tender payment within thirty calendar days. In 15 instances, the Company failed upon acceptance of the claim to tender payment within thirty calendar days. In majority of the instances, the medical bills were received and the medical payments were not paid within thirty calendar days. There were a couple of instances the medical payments were not paid for more than a year. These medical bills were paid, as a result of this examination. The Department alleges these acts are in violation of CCR §2695.7(h).

Summary of Company Response: As a result of this examination, the Company included this issue in their 3/12/03 memorandum specifying medical payment claims are not addressed in a timely manner and the need to timely address and issue payment or to request additional information necessary within 15 days. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.7(h) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

7. The Company failed to accept or deny the claim within forty calendar days. In 14 instances, the Company failed, upon receiving proof of claim, to accept or deny the claim within forty calendar days. In most cases, the estimates, medical bills, medical specials/demands, confirmation of coverage or proof of loss were received with no actions taken for months. The Department alleges these acts are in violation of CCR §2695.7(b).

Summary of Company Response: The Company stated they have in place a specific form letter for the claims staff to utilize to ensure compliance with this regulation. As a result of this examination, the Company issued a memorandum to the claims staff on 3/12/03 directing them to utilize the form letter to ensure the 40 day requirement, to either accept or deny the claim. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.7(b) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

8. The Company attempted to settle a claim by making a settlement offer that was unreasonably low. In 13 instances, the Company attempted to settle a claim by making a settlement offer that was unreasonably low.

In six collision claims, the Company agreed that deductibles were incorrectly applied and issued refunds. These cases involved uninsured motorist collision deductible waiver coverage. The claim files contain police reports or other information identifying the other party. The Company did not investigate or clarify if the other party had insurance to rule out or resolve the collision deductible waiver coverage. There was no documentation explaining to the insured the Company's internal need for Department of Motor Vehicle SR-1 and SR-19 filings. The examiners identified three additional claims that indicated a compensable claim was apparent under the Collision Damage Waiver Coverage. The Company has agreed to investigate these three claims.

In one instance the Company applied the homeowner policy deductible to special policy limits as opposed to the applying the deductible to the loss. The sample homeowner policies provided to the Department did not define deductible nor did they contain a clause defining whether the deductible is applied to the loss or to the special limits. The industry standard is to apply the deductible on a per loss basis.

In one instance, the Company applied 100% of the homeowner deductible while covering 50% of a loss on a common "Good Neighbor" fence. Following the findings, the Company provided the Examiner with a copy of their Homeowner Guidelines which does not specify that community fence/wall losses are to be paid pro-rata 50% and if settled on this basis, the Company will apply only half of the applicable deductible.

One instance involved underpayment of bills under Medical Payments coverage.

One instance involved underpayment of a rental reimbursement claim.

The Department alleges these acts are in violation of CCR §2695.7(g).

Summary of Company Response: With respect to the auto portion, the Company disagreed with this criticism, as the Company paid all claims wherein the Collision Deductible Waiver or Uninsured Motorist Property Damage Coverage applies. The Company stated many of the claims reviewed during the examination were not conclusive in determining that the other party was uninsured and/or did they have sufficient documentation to report the responsible party was uninsured. There were cases, where the Company elected to concede the responsible party was uninsured without proper documentation to support the responsible party was in fact uninsured. The Company agreed in some cases, that this decision could have been made sooner in the effort to finalize the claim. As a result of this examination, the Company instructed the claims staff to immediately return any deductible and settle UMPD claims upon establishing the claimant is uninsured and to send the insured the DMV SR-1 form and to follow up with the insured so SR-19 can be obtained, in their 3/12/03 memorandum. A copy of the memorandum has been provided to the CDI for review.

With respect to the homeowners portion, as a result of this examination the Company added the homeowners guidelines section and provided the Department with a copy of the guidelines along with the depreciation tables used as a guideline. The Homeowner Guidelines provided to the Department includes community fence/wall losses. The guidelines specify these losses are paid pro-rata 50% and if settled on this basis, the Company will apply half of the applicable deductible. The Company disagrees that the acts are a violation of CCR§2695.7(g) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

This is an unresolved issue and may result in administrative action.

9. The Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. In 10 instances, the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile. The company's specific form letter is not being utilized by the claims staff in a consistent basis. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

Summary of Company Response: The Company notes that a verbal explanation of the cost of the comparable automobile was provided in conjunction with providing the written settlement offer which states the value of the comparable automobile. The Company has stated that it has in place a specific form letter for the claims staff to utilize to ensure compliance with this regulation. As a result of this examination, the Company sent a memorandum to management on 2/13/03 instructing them to send a directive to all their claims adjusters. In addition, the Company included in their 3/12/03 memorandum to the claims staff an instruction that all total losses need a written explanation and to utilize the form letter in the SIS system. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.8(b)(1) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

10. The Company failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days. In eight instances, the Company failed to provide necessary forms, instructions, and reasonable assistance within fifteen calendar days. The

Company sends acknowledgement letters stating they will attempt to contact the claimant by telephone within the next 24 hours. In most of these cases, the contacts providing instructions, assistance or explaining necessary forms were done more than fifteen days after receipt of claims. The Department alleges these acts are in violation of CCR §2695.5(e)(2).

Summary of Company Response: The Company did not concur with the Department's findings as stated above. The Company indicates the claims staff provides instructions and reasonable assistance. The Company agrees that the forms provided to the claimant can be better documented. As a result of this examination, the Company issued a memorandum to the claims staff on 3/12/03 directing them to use the system generated letter and reminding them that the adjuster is responsible to provide the claimant any necessary forms, instructions, and reasonable assistance to process their claim. In addition, the Company will alter the form letters to include enclosures with any letter to better document the file and compliance in this area. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.5(e)(2) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

11. The Company failed to begin investigation of the claim within fifteen calendar days. In eight instances, the Company failed to begin investigation of the claim within fifteen calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3).

Summary of Company Response: The Company did not agree, concur, or confirm as stated above. As a result of this examination, the Company included this issue in the 3/12/03 memorandum. The claims staff was reminded to perform certain activities within 15 days of receipt and to clearly indicate in the claim file that investigation have begun. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.5(e)(3) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

12. The Company failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry. In seven instances, the Company failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry. These inquiries were part of the Department's on site examination process and were referred to the Company during the on site examination of 1/27/03 through 2/25/03 and post-examination visits in 3/03. The Department followed up on the status of these inquiries by e-mail in 3/03 and 5/1/03, followed by the letter of 7/18/03. The responses were not received until 8/25/03. The Department alleges these acts are in violation of CCR §2695.5(a).

Summary of Company Response: The Company has reminded its staff to respond fully to DOI claims inquiries per the requirements of Section CCR §2695.5(a). Following receipt of a Department of Insurance inquiry, the Regional Manager has five calendar days to complete response. All DOI inquiries are placed on a diary with the Vice President of Claims to assure compliance with CCR Subsection 2695.5(a). The Company disagrees that the acts are a violation of CCR§2695.5(a) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

13. The Company failed to supply the claimant with a copy of the estimate upon which the settlement is based.

In five instances, the Company failed to supply the claimant with a copy of the estimate upon which the settlement is based. The Company did not provide the Department with documentation that claimants were supplied with estimates in all 5 instances. The Department alleges these acts are in violation of CCR §2695.8(f).

Summary of Company Response:

The Company maintains the estimates were supplied but the adjuster failed to document it in the claim file. The Company will remind its claims staff to include in the file documentation that the insured is provided with a copy of the written estimate. The Company has instructed the Independent Appraisers they hire to provide a copy of the estimate to the insured and to the repair shop of the insured's choice. It is also the Company's policy to provide copies of estimates and supplemental estimates to the insureds as well as claimants. The Company disagrees that the acts are a violation of CCR§2695.8(f) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice

14. The Company failed to disclose all policy provisions. In four instances, the Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. In the first three instances, the Company did not acknowledge the findings. In one of these instances, the Company stated there was a phone contact with the insured and it is the policy to discuss all available coverages; however, there was no documentation in the display note of 1/16/02 that coverages were discussed. In the last instance, the replacement cost procedure was not explained to the insured. The Department alleges these acts are in violation of CCR §2695.4(a).

Summary of Company Response:

The Company maintains that the explanation as to pertinent benefits, coverage is normally performed verbally at the inception of the claim. As a result of this examination, the Company sent a memorandum on 3/12/03 directing the claims staff to place a file note, which documents information about policy provisions, coverage, limits, etc. In addition, the Company will take steps to ensure compliance and implement a form letter, which will basically outline the available coverages and any pertinent benefits under the policy to the insured. A copy of the memorandum has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.4(a) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

15. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance.

In four instances, the Company failed to include a statement in their claim denial letter that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

Summary of Company Response:

The Company has acknowledged failing to include the statement that the California Department of Insurance may review the file as well as not having the Department's number and address. The Company stated that these were

inadvertently on the part of the adjusters, as it is the Company's procedure that all denial letters include the statement. The Company's form letter contains this statement and a copy has been provided to the CDI for review. The Company disagrees that the acts are a violation of CCR§2695.7(b)(3) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

16. The Company failed to record claim data in the file. In three instances, the Company failed to record the date the Company received, date(s) the Company processed and date the Company transmitted or mailed every relevant document in the file. The Department alleges these acts are in violation of CCR §2695.3(b)(2).

Summary of Company Response: As a result of this examination, the Company will remind its claims staff to date stamp documents. All mail received in the Claims Department will be date stamped and then routed to the Supervisors. The Supervisors are required to confirm all mail has been date stamped before it has been forwarded to the Claims Adjuster. All mail received by either Federal Express or UPS is also date stamped and sent to the Supervisor before it is actually delivered to the Adjuster. The Company disagrees that the acts are a violation of CCR§2695.3(b)(2) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

17. The Company failed to provide written basis for the denial of the claim. In three instances, the Company failed to provide written basis for the denial of the claim. The Department alleges these acts are in violation of CCR §2695.7(b)(1).

Summary of Company Response: As a result of this examination, the Company sent a denial letter on 2/26/03 to one of the three insureds. The Company has in place a form letter to assure compliance and provide written basis for the denial of any claim. The Supervisor is responsible to confirm the appropriate written letter has been completed prior to the claim file being closed. The Company disagrees that the acts are a violation of CCR§2695.7(b)(1) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

18. The Company failed to provide written notification to a first party claimant as whether the insurer intends to pursue subrogation. In three instances, the Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation of the claim. The Department alleges these acts are in violation of CCR §2695.8(i).

Summary of Company Response: The Company will remind its claims staff to provide a written notification to a first party claimant as whether the insurer intends to pursue subrogation. The Company has in place specific form letters for subrogation. Following the initial subrogation demand by the Adjuster, the Company will process the notification to the insured of their intentions to pursue recovery of their joint losses. The Supervisor is responsible to confirm proper written notification is given to the insured with respect to subrogation efforts. The Company disagrees that the acts are a violation of CCR§2695.8(i) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

19. The Company persisted in seeking unnecessary information. In two instances, the Company persisted in seeking information not reasonably required for or material to the resolution of a claim dispute. In the first instance, the Company acknowledged the information had been obtained and did not require reconfirmation. In the second case, the Company did not dispute the findings and indicated the information was not in the file when the second and third requests for the information were made. However, the information was received and date stamped before the second request for the same information was made. The Department alleges these acts are in violation of CCR 2695.7(d).

Summary of Company Response: As a result of this examination, Supervisors are required to closely monitor any unmatched mail on a daily basis. This will eliminate the possibility correspondence had been received, but not in the claim file. Any second request for information will not be performed until a thorough review has been conducted to assure all mail received is matched to the claim file. The Company disagrees that the acts are a violation of CCR§2695.7(d) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

20. The Company failed to provide written notice of any statute of limitation sixty days prior to the expiration date. In two instances, the Company failed to provide written notice of statute of limitation or other time period requirement not less than sixty days prior to the expiration date. In one instance, the Company did not dispute providing the statute of limitation letter 24 days prior to the expiration date and indicated the Company extends the statute 60 days from the day of their notice, if for any reason the notice is late. In the other instance, the file review of 9/23/02 indicated “no statute letter send, statute ran 3/6/02”. The Department alleges these acts are in violation of CCR §2695.7(f).

Summary of Company Response: The Company stated that it will remind its claims staff to provide written notice of a limitation or other time period requirement not less than sixty days prior to the expiration date. The Company stated, if for any reason the notice is late, they extend the statute 60 days from the date of their notice. The Company disagrees that the acts are a violation of CCR§2695.7(f) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

21. The Company failed to document the determination value. In two instances, the Company failed to document the determination of value. Any deduction from value, including deduction for salvage, must be discernible, measurable, itemized, and specified as well as be appropriate in dollar amount. The Company conducted further investigations and issued refunds to the insureds. The Department alleges these acts are in violation of CCR §2695.8(b)(1)(C).

Summary of Company Response: The Company has acknowledged failing to document the determination of value in one instance and not clarifying a discrepancy in the other instance. As a result of this examination, the Company investigated the first case and determined an adjustment was in order. The Company provided the Department with a copy of the adjustment check. The Company contacted the manufacturer on the second case and upon confirming that the vehicle was manufactured from the factory with air condition and AM/FM

stereo issued an adjustment to the insured. The Company disagrees that the acts are a violation of CCR§2695.8(b)(1)(C) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

22. The Company failed to effectuate prompt, fair, and equitable settlement of claim.

In two instances, the Company failed to effectuate prompt, fair, and equitable settlement of claim. In two instances, the Company did not include unused vehicle license fee in the total loss settlements for third party claimants. It is the Company's position that the regulation does not require an insurer to front refunds of unused license fees. The Department alleges these acts are in violation of CIC §790.03(h)(5).

Summary of Company Response: It is the Company's position that the regulation does not require an insurer to advance refunds of unused license fees. The Company's procedure on total losses is to include sales tax, when appropriate and the Company believes this to be a rare exception in the settlement of any third party automobile total loss claim. The Company stated the majority of all total loss claims included the \$15.00 transfer fee and it is the Company's position that they do not owe \$3.00 salvage certificate fee on owner's retained vehicle. However, the Company has agreed to payments on 2002 total loss claims where the Company did not pay either the \$15.00 transfer fee, unused license fee and/or sales tax. In addition, the Company issued a memorandum to all claims staff on 3/12/03 instructing to pay unused license fees on all first and third party total loss claims on a go forward basis and reminding the inclusion of the \$15.00 transfer fee. The Company now has a contract with an outside vendor to calculate the appropriate settlement figure for unused vehicle license fees. Furthermore, in a remedial effort, the Company completed a self-survey of third party total loss claims. The Company provided the CDI with the results of the survey including a list of all additional payments with supporting documentation.

The Company does not include sales tax and salvage certificate fee on an owner retained vehicle. It is the Company's position that the \$3 salvage certificate fee is one aspect of the owner's responsibility and no sales tax is due, as there is no sale of the salvage vehicle. The Company disagrees that the acts are a violation of CCR§790.03(h)(5) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.

This is an unresolved issue and may result in additional administrative action.

23. The Company failed to comply with the Fair Claims Settlement Practices Regulations. In two instances, the Company failed to comply with the following Fair Claims Settlement Practices Regulations: CCR §2695.5(e)(1) and CIC §790.03(h)(1). The Company confirmed that the acknowledgement did not occur as required and also concurred a misrepresentation of the medical payment limits and associated coverages was made to the insured.

Summary of Company Response: As a result of this examination, the Company issued a memorandum on 3/12/03 reminding the claims staff to perform certain activities within 15 days of receipt and the use of the Company's system generated letter, which

they automatically send the insured, to resolve the first citation. A copy of the memorandum has been provided to the CDI for review. The Company stated the second citation is an isolated incident by the claims adjuster on the file in question and the supervisor for this adjuster should have observed this error and corrected any misrepresented policy provisions. The Company disagrees that the acts are violations of CCR §2695.5(e)(1) and CIC §790.03(h)(1) as the Company has not knowingly committed or performed with such frequency the alleged act as to indicate a general business practice.